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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/083,557 | 02/27/2002 | Steve Schnetzler | 2207/14007 | 5880 |

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| 23838     7590     05/11/2006 | | EXAMINER |
| KENYON & KENYON LLP | | BENGZON, GREG C |
| 1500 K STREET N.W. | | |
| SUITE 700 | ART UNIT | PAPER NUMBER |
| WASHINGTON, DC 20005 | 2144 | |

DATE MAILED: 05/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED <u>17 April 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

       Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

      NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: <u>none</u>.

   Claim(s) objected to: <u>none</u>.

   Claim(s) rejected: <u>1-21</u>.

   Claim(s) withdrawn from consideration: <u>none</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See attached sheets.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

**WILLIAM C. VAUGHN, JR.**
**PRIMARY EXAMINER**

### Response to Arguments

Applicant's arguments filed 04/17/2006 have been fully considered but they are not persuasive.

The Applicant presents the following argument(s) [*in italics*]:

*'...disclosure of a physical I/O address of a resource file does not disclose adding an identity of the first server to the data and forwarding the data to the client computer as specifically recited in the claims..... it is clear that the that the embedded physical I/O address of a resource file does not include an identity of a server responsible for forwarding the requested data to the client computer ...because Barrera does not require the use of servers at all in its retrieval process.'*

The Examiner respectfully disagrees with the Applicant. As indicated in the Final rejection, a server is a network device that responds to client requests by providing the data requested back to the client. Thus, using the broadest reasonable interpretation for a server, the storage device controller described by Barrera responds to the client requests as a server. Furthermore, in Column 8 Lines 5-10 Barrera disclosed imbedding the IP address of the storage device controller in the URL request. Hence, the combination of O'Neil and Barrera disclosed adding an identity of a server and forwarding the data to the client, as described in Claim 1.

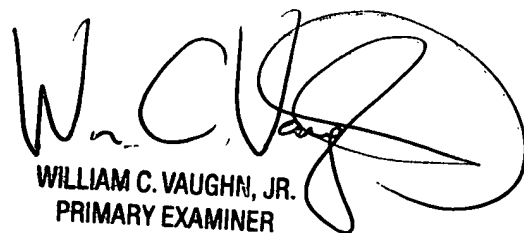The Applicant presents the following argument(s) [*in italics*]:

*'a MAC is not the same as an IP identifying address...a MAC address is not sufficient to disclosed an identity of a first server...'*

The Examiner respectfully disagrees with the Applicant. While the Examiner agrees that a MAC address is not the same as an IP address, there is no limitation in the Claims that would disqualify a MAC address as a unique network identifier for a network device, such as a server. Barrera also disclosed an embodiment using the IP address to indicate the server.

The Applicant presents the following argument(s) [*in italics*]:

*'...the cited URL address of Barrera is sent as part of an instruction request to the host server...Barrera does not disclose adding an identity of the first server to the data and forwarding the data to the client computer...'*

The Examiner respectfully disagrees with the Applicant. As indicated above, Barrera indicates an identifier for the server that is providing the requested resource. With respect to *'forwarding the data* [ the modified URL] *to the client'*, the Examiner notes that Barrera disclosed sending a Web page to the client containing the modified URL (Barrera-Column 6 Lines 20-30).

WILLIAM C. VAUGHN, JR.
PRIMARY EXAMINER